

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JEFFREY MORABITO,

Plaintiff,

v.

WESTCHESTER COUNTY; NEW YORK
CORRECT CARE SOLUTIONS MED
SERVICES P.C.; SERGEANT PRICE; WELL
PATH,

Defendants.

No. 22-CV-6853 (KMK)

ORDER OF SERVICE

KENNETH M. KARAS, United States District Judge:

Plaintiff Jeffrey Morabito (“Plaintiff”), who is currently in custody of the Westchester Department of Corrections, brings this *pro se* Action under 42 U.S.C. § 1983 and Title II of the Americans with Disabilities Act, 42 U.S.C. § 12131, *et seq.*, alleging that the Defendants violated his rights when they provided inadequate medical treatment of his opioid withdrawal symptoms. (*See generally* Compl. (Dkt. No. 2).) By Order dated August 12, 2022, the Court granted Plaintiff’s request to proceed *in forma pauperis* (“IFP”), that is, without prepayment of fees.¹

I. Discussion

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.² *Walker v. Schult*, 717 F.3d. 119, 123 n.6

¹ Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed IFP. *See* 28 U.S.C. § 1915(b)(1).

² Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date a complaint is filed, Plaintiff is proceeding IFP, and the U.S. Marshals were unable to effect service on Defendants Correct Care Solutions, WellPath Medical Services, and Sergeant Price after the Court issued its initial Order of Service.

(2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP).

To allow Plaintiff to effect service of the Complaint on Correct Care Solutions, WellPath Medical Services, and Sergeant Price, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for each of those Defendants. The Clerk of Court is further instructed to issue a summons for each of those Defendants and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service of the Complaint upon those Defendants.

If the Complaint is not served on those Defendants within 90 days after the date the summonses are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the Action if Plaintiff fails to do so.

II. Conclusion

The Court directs the Clerk of Court to mail an information package to Plaintiff.

The Court further directs the Clerk of Court to issue summonses for Correct Care Solutions, WellPath Medical Services, and Sergeant Price; complete USM-285 forms with the addresses of those Defendants; and deliver all documents necessary to effect service of the Complaint on those Defendants to the U.S. Marshals Service.

The Court therefore extends the time to serve until 90 days after the date that summonses are issued as directed in this Order.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444–45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: April 10, 2023
White Plains, New York

A handwritten signature in black ink, appearing to read 'KMK', is positioned above a horizontal line.

KENNETH M. KARAS
United States District Judge

DEFENDANTS AND SERVICE ADDRESSES

1. New York Correct Care Solutions
Westchester County Department of Corrections
P.O. Box. 10, Woods Road
Valhalla, NY 10595
2. WellPath Medical Care
Westchester County Department of Corrections
P.O. Box 10, Woods Road
Valhalla, NY 10595
3. Sergeant Price
Westchester County Department of Corrections
P.O. Box 10, Woods Road
Valhalla, NY 10595